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# City of Mission Viejo

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January 26, 1993

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Donna R. Searcy, Secretary  
Federal Communications Commission  
1919 M Street N.W. Room 222  
Washington D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

JAN 27 1993

Dear Ms. Searcy:

Thank you for the opportunity to comment on the Federal Communications Commission ("FCC") Notice of Proposed Rule-Making, MM Docket 92-266, implementing the Cable Television Consumer Protection and Competition Act of 1992. We appreciate the short timeframe imposed by the Cable Act for the FCC to develop the necessary regulations. Our City is very interested in the rate regulation rules being developed and in providing our comments.

At this time, due to the short deadline I can only provide preliminary comments, but I would request your leniency in accepting more detailed comments during the reply phase. For now, I would offer the following:

1. Mission Viejo's Condition. The City of Mission Viejo is a community with a single cable operator, Times Mirror Cable Television of Orange County, Inc. Our City has approximately 22,000 cable subscribers out of approximately 26,300 dwelling units and a population of approximately 80,000. Since our community prohibits aerial antennas, cable television is the only alternative to receive television. Naturally, we are quite interested in exploring the opportunity to regulate cable television rates for at least the basic tier of service.
2. Determination of Effective Competition. Our initial view is to encourage the FCC to leave the determination of whether or not competition exists to the local franchising authority. A local franchising authority should be in the best position to complete an analysis and develop a finding with respect to effective competition, and to file the finding with the FCC in application to be certified as a rate regulatory authority.

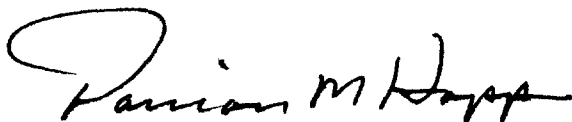
3. Combine Benchmark & Cost-of-Service Approaches. The FCC-proposed national benchmark is conceptually a good approach to regulating rates with little regulatory burden. However, we would want to ensure that the benchmark was established within regions, so it would reflect regional differences in cost-of-living. The benchmark should be established averaging rates for basic tier service of systems where effective competition exists. Additionally, we would propose that a benchmark approach not ipso facto excluded cost-of-service regulation. We would propose that in all circumstances, but no more than once every three (3) years, a franchising authority be permitted to undertake with a cable operator a cost-of-service analysis and establish a "relationship of appropriateness" to the regional/national benchmark rates. A franchising authority could determine that appropriate rates are a percentage above or below the benchmark. The periodic nature of the optional cost-of-service analysis, would conform to the legislative intent of avoiding regulatory burdens.
4. Service Price Index (SPI). The FCC-proposed concept of a creating a consumer price index type measure for cable television would be a good mechanism for determining appropriate percentage adjustments from year to year. We would urge, that if a benchmark combined with optional cost-of-service calculations establishing an "appropriateness of relationship," are adopted, in the years where cost-of-service is not calculated, basic tier rates be adjusted according to the proposed SPI.
5. Billing Itemization. We would urge the FCC to provide the franchising agency the regulatory authority to approve and/or direct modifications to a cable operators approach to itemizing service charges on billing statements, in conjunction with rate regulatory authority. Cable operators and franchising agencies have regularly disagreed over the appropriate manner in which to depict and calculate franchise fees and costs associated with PEG access support. The franchising agency, which is charged with protecting the public interest, and motivated not-by-profits, but by a desire to clearly and accurately present billing information, should have the authority to ensure editorial accuracy on the billing statements, as franchising authorities have with respect to solid waste franchise administration.

Donna Searcy, Secretary  
Federal Communications Commission  
January 26, 1993  
Page 2

6. Multi-Jurisdictional Rate Regulation Certification. The City would urge the FCC to make regional joint filings for rate regulatory authority optional. Conceptually, we agree that rates should be standardized over a cable system. However, this may not be possible due to variations in franchise fees and PEG access requirements. Also, multi-jurisdictional coordination would clearly run counter to the legislative intent of not imposing regulatory burdens. Multi-jurisdiction joint filings for certification and rate regulation should be encouraged, but ultimately optional.
7. Complaint Filing Procedure. Once a franchising agency has been certified as a rate regulatory authority, it would seem inappropriate for consumer complaints to be filed directly to the FCC -- they should be filed with the regulatory authority. Every effort should be made to resolve the complaint by the local agency and the cable operator. Failing the ability to resolve complaints at the local level, the complaints could be filed with the FCC by the local rate regulatory authority.

The comments provided above are preliminary and we would appreciate additional time, through the reply phase, to elaborate on #1-7 above and other matters. We appreciate the opportunity to offer comments during the rule-making process. If I can answer any questions, please feel free to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Danian M. Hopp". The signature is fluid and cursive, with a large initial 'D'.

Danian M. Hopp  
Assistant to the City Manager

c: Fred Sorsabal, City Manager